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September 23, 2014

VIA ECF

Honorable I. Leo Glasser
Senior District Court Judge
United States District Court
Eastern District of New York
225 Cadman Plaza East
Brooklyn, New York 11201

Re: *SPA-SIMRAD, Inc. v. Daniel Wainstein, et al.*, 14-cv-05165 (ILG)(RML)
Partial Opposition to Defendants' Letter Motion for an Extension of Time

Your Honor:

I represent the Plaintiff in the above action and write pursuant to Your Honor's individual Rule of Practice 1(E) and in partial opposition to defendants' request for a an extension to file its proposed motion to dismiss the First Amended Complaint in this matter. Plaintiff does consent to an extension to October 21, 2014, and asks this Court not allow defendants to unnecessarily delay a resolution to the matters at bar any further.

This matter involves a group of alleged criminals, all of whom live in New York. Operating through their attorney and co-conspirator in Florida, the defendants defrauded and destroyed SPA-Simrad, Inc., a company that provided vital weapons and accessories to law enforcement, the military and the U.S. Government. On July 7, 2014, the defendants were sent a preservation notice and instructed that Plaintiff would be filing in the Federal Court of New York on July 18, 2014 to address the fraud and racketeering activities of the group. On July 15, 2014, Allan Joseph, the attorney representing the defendants in Florida, contacted me and a discussion was had between the parties regarding a resolution. On July 17, 2014, in a transparent effort only Hirohito could respect, the defendants filed the Florida Action regarding breach of contract.

The Florida Action is premised on a breach of contract between Georgetown Corp. – a shell corporation that exists only to carry out the frauds of the enterprise, and exists for no other

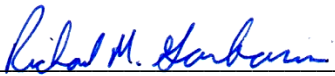
purpose. It has no assets and no revenue, yet it was going to own 49% of plaintiff. This is not a breach of contract case, it is the coordinated efforts of a group who conspired to defraud plaintiff, and many others. The enterprise will continue to defraud unless they are made to stop, and that is why not delaying the prosecution of this action is vital.

The current issue, as defendant states, is their proposed motion to dismiss in favor of the Florida Action. This is a litigation tactic, nothing more, and moving counsel is trying to cover his tactic of delay by spuriously invoking the “upcoming Jewish holidays.” The First Amended Complaint is 58 pages and 245 numbered paragraphs, the vast majority of which address the previous frauds of the enterprise. Defendant will not be addressing the vast majority of the complaint in its motion, but filing pursuant to Federal Rules that address legal issues as well as the “first-to-file” rule based on the impermissible forum shopping by the defendants.

The First Amended Complaint was filed on defendants on September 9, 2014. (Dkt. Nos. 5-8). Defendants’ requests for an extension to November 14, 2014 represents sixty six days from service to prepare a motion to dismiss. Plaintiff requests this matter not be allowed to linger. There are twelve people, each of whom worked for plaintiff for more than a decade, that lost their jobs, and will be left struggling and without insurance for the “upcoming Jewish holidays”. Their lives have been ruined and a good company was destroyed, and they deserve justice.

We ask defendants’ time to file their motion be extended only to October 21, 2014

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By: 
Richard M. Garbarini

Attachment

Jordan Greenberger, Esq. (VIA ECF).